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SEP 25 2006

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

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OCT 23 2006

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RAMIRO GANDARILLA-QUINTANA,

Defendant - Appellant.

No. 06-30120 **CLERK, U.S. DISTRICT COURT
ANCHORAGE, ALASKA**

D.C. No. CR-05-00098-a-RRB

MEMORANDUM*

Appeal from the United States District Court
for the District of Alaska
Ralph R. Beistline, District Judge, Presiding

Submitted September 18, 2006 **

Before: O'SCANNLAIN, GRABER and CLIFTON, Circuit Judges.

We have reviewed the record and the opening brief and conclude that the questions raised in this appeal are so insubstantial as not to require further

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

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argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard).

The United States Supreme Court's decision in *Almendarez-Torres v. United States*, 523 U.S. 224, 247 (1998), remains binding on this court until the Court overrules it. *See United States v. Weiland*, 420 F.3d 1062, 1079 n.16 (9th Cir. 2005) (noting that this court remains bound by the Supreme Court's holding in *Almendarez-Torres* that a district court judge may enhance a sentence on the basis of prior convictions, even if the fact of those convictions was not found by a jury beyond a reasonable doubt).

Accordingly, the government's motion for summary affirmance of the district court's judgment is granted.

AFFIRMED.

